IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7575 OF 2005

Krishna Ganpati Kurade and ors. .. Petitioners.

Vs

Muktabai Antu Rhatwal and ors .. Respondents

Mr M.S.Lagu, for the petitioners.
Mr Prabhu i/b Mr N.V.Bandiwadekar, for respondent no.1

CORAM : D.B.BHOSALE,J.
DATE : 05.09.2006
PC:

1. Heard the learned counsel for the parties.

2. Rule. Returnable forthwith. Mr.Prabhu, learned counsel, waives service for respondent no.1. By consent, rule is heard forthwith.

3. By this writ petition, the petitioners have taken exception to the order dated 2.7.2005 passed by the trial Court rejecting the application filed by the petitioners-defendant nos 1 to 4 under Order 6 rule 17 of the Code of Civil Procedure. By that application, the petitioners sought to amend the written statement stating that defendant no.1 is the Karta of the family consisting of defendant nos 1 to 5. That application was rejected by the trial Court on the ground that the amendment is inconsistent with the original pleadings. I perused the written statement. In the written statement, the petitioners have denied joint family

consisting of the plaintiff and the defendants and have not denied the joint family of defendant nos 1 to 5. I do not find any inconsistency in the amendment of the original pleadings. By way of amendment, the petitioners have only stated that defendant no.1 is the Karta of their family consisting of defendant nos 1 to 5. In the circumstances, this petition is allowed. The petitioners are allowed to carry out the amendment, as prayed for, within two weeks from the date of receipt of this order. Rule is disposed of. There shall be no order as to costs.

(D.B.BHOSALE,J.)